

REMARKS

Claims 1-6 and 8-13 are now pending in this application for which applicants seek reconsideration.

Allowable Claims & Amendment

Claims 2-5 and 10-13 were indicated to be allowable if claims 2 and 10-13 are placed in independent form. To expedite allowance, claims 2 and 10-13 have been placed in independent form.

Independent claim 1 has been amended to clarify that there is at least three frequency bands and at least three reproduction regions corresponding in number of the frequency bands. Claim 7 has been canceled since it is redundant to claim 5. Claims 3 and 8 have been amended to improve their form.

No new matter has been introduced.

§ 112 Rejection

Claims 5-9 were rejected under 35 U.S.C. § 112, first paragraph, because the examiner believes that the original specification does not support the last wherein clause (*wherein a passing frequency band permitted to pass in each of the primary filter is set to decrease from the speakers positioned at opposite end portions of the speaker array to the speaker or speakers positioned at a central portion of the speaker array*).

Applicants submit that at least Fig. 2B supports claim 5. In Fig. 2B, for the left/right channels, the high frequency regions 27Lh/27Rh are at the opposite end regions, while the low frequency regions 27Ll/27Rl are at the center. In other words, Fig. 2B illustrates a *passing frequency band permitted to pass in each of the primary filter set to decrease from the speakers positioned at opposite end portions (highest frequency regions 27Lh/27Rh) of the speaker array to the speaker or speakers positioned at a central portion (lowest frequency regions 27Ll/27Rl) of the speaker array*. See paragraph 47 of the published application (USPGP 2008/0159545).

Art Rejection

Only claim 1 was rejected under 35 U.S.C. § 103(a) as unpatentable over Furuta (JP 06-225379). In the previous reply, applicants explained that Furuta does not disclose or teach allocating a different number of speakers to each of the reproduction regions.

Furuta discloses two horizontally extending rows of speakers, an eight-speaker row 2 and a seven-speaker row 3. In Fig. 5, eight band pass filters (BPF) 71-78 having different passing frequencies are connected to the fifteen speakers, each BPF 72-78 being connected to

a pair of speakers, while BPF 71 is connected to only the center speaker of the seven-speakers row 3. Fig. 6 is similar to Fig. 5 except that a low pass filter (LPF) 78a is connected to the outer two speakers of the 8-speaker row 2, while a high pass filter 71a is connected to the center speaker of the 7-speaker row. Fig. 7 is similar to Fig. 5, except that eight LPFs 81-88 are used. Fig. 8 is similar to Fig. 7 except that LPF 81 is omitted, and all remaining seven LBFs 82-88 are connected to the center speaker of the 7-speaker row.

None of the embodiments of Furuta disclose or teach the claimed feature of allocating a different number of speakers to each of reproduction regions, which means that no two different reproduction regions can have the same number of speakers. In Furuta, the reproduction regions each only have 1 or 2 speakers, which means that the different reproduction regions must be allocated with the same number of speakers. Accordingly, Furuta does not teach allocating a different number of speakers to each of the reproduction regions.

For added clarity, independent claim 1 has been amended to define that the number of speakers allocated to each of the at least three reproduction regions corresponding to the number of frequency bands is different.

As to the examiner's design choice allegation, the seminal Supreme Court case, *Graham v. John Deere*, requires the examiner to first establish *prima facie* obviousness. See MPEP § 2142, § 2143. To do this, the PTO must identify a teaching or some suggestion of the desirability of doing what the inventors here have done. To establish that the claimed invention is directed to an obvious subject matter, either the applied reference must expressly or implicitly suggest the claimed invention or the examiner must present a convincing line of reasoning as to why an ordinary artisan would have found the claimed invention to have been obvious in light of the teachings of the applied reference(s). The suggestion or the examiner's reasoning, however, must be objective, supported by prior art. Indeed, MPEP § 2143 specifically states that "there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness." *KSR Int'l v. Teleflex Inc.*, 127 S. Ct. 1727, 1741 (2007) (quoting *In re Kahn*, 441 F.3d 977, 988 (Fed. Cir. 2006)). Here, the examiner simply provides no support or any legal basis for concluding that the specific speaker configuration claimed is a design choice.

Conclusion

Applicants submit that the pending claims patentably distinguish over the applied references and are in condition for allowance. Should the examiner have any issues concerning this reply or any other outstanding issues remaining in this application, applicants urge the examiner to contact the undersigned to expedite prosecution.

Respectfully submitted,

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DATE

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